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S. F. No. 80-OS

PLAINTIFF'S EXHIBIT	
CASE NO.	CV04-0360P
EXHIBIT NO.	049

WSA04365

Extensive changes have been made in the Washington state wine laws and regulations during the past four years.

It is recalled that the first major effort on the part of private interests to legalize the sale of out-of-state wines through licensed importers and wholesalers was made in 1967 during the 40th Session of the State Legislature. Under the existing laws at that time the Liquor Control Board was the sole agency legally empowered to import wine for resale in the state. The proposed legislation was not enacted, despite vigorous efforts by its proponents.

However, much groundwork had been accomplished by supporters of the measure, and their efforts were instrumental in paving the way for enactment of House Bill 100 in 1969. Under the provisions of the new legislation, licensed importers and wholesalers became eligible to traffic in out-of-state wines, and the wine tax structure was revised.

The gallonage tax of 10 cents per gallon, formerly applied on Washington-produced wines, was extended to include out-of-state wines imported by licensed state importers, and a 26 percent sales tax was imposed on all wines. The tax rates were set at this level to recover the estimated loss in public revenue which was expected to result because of a projected reduction in wine sales by the Board. The new legislation went into effect on July 1, 1969.

In order to implement the amended statutes it was necessary for the Board to institute many rule changes and add new rules. Thirty-two such regulations were adopted and placed into effect on July 1, 1969, in conformity with the effective date of H.B. 100.

In 1973, after four years of operation under the original "wine bill", a major change was made in the wine tax structure during the 43rd Session of the State Legislature. The amended law provided for elimination of the 26% sales tax; extended the gallonage tax to sales by the LCBoard; made wine sales by the Board subject to the gallonage tax and to the retail sales tax; vested wholesalers with

the responsibility for paying the gallonage tax; imposed a floor tax of 65 cents per gallon on all wines in the wholesalers' possession on control on June 30, 1973; and authorized the Board to require bonds to insure the payment of the gallonage tax.

Again, it was necessary for the Board to hastily amend a number of regulations on an emergency basis to provide for proper implementation of the changed law which was to go into effect on July 1, 1973.

Rule Changes Important to Wholesalers

In reviewing the Board's operation over the past few years, it is highly evident that a great deal of attention has been devoted to regulations. It is also quite obvious that a majority of the adopted rule changes have directly or indirectly affected the operations of beer and wine wholesalers.

The wholesalers, through their industry association, have proposed a number of regulatory changes, and in most instances the Board has approved the requested amendments. The Board itself has initiated action on numerous regulations to keep pace with modern industry requirements.

Many rules have been revised during the regime of the present members of the Liquor Control Board, and have undoubtedly been in the best interests of beer and wine wholesalers. Certain of the more significant effects of regulation revisions, are as follows:

Rule (15)--Relaxed the requirements for certifying near beer.

Rule (37)--Eliminated requirement that in-transit stamps be affixed on beer packages prior to sale to military outlets.

Rule (39)--Authorized the importation of foreign beer in package sizes commonly used in the country in which such beer was produced.

Rules (49) and (81)--Vested wholesalers with the authority to establish their own wholesale prices on beer and wine, respectively; these prices formerly set by

breweries and wineries. Other new provisions added to these rules authorized the issuance of platform delivery permits to retailers.

Rule (49.5)--Made breweries subject to 15-day posting period, on the same basis as wholesalers.

Rule (62)--Provided simplified procedure for certifying rare vintage wines of limited quantity.

Rule (69)--Authorized wholesalers who export or sell wine to military outlets to deduct the amount of the tax from such sales at the time of making their monthly tax remittances to the Board. Formerly, they were required to pay the tax on such sales and apply for tax refunds later.

The Board declined to take precipitous action on a petition submitted on behalf of numerous retail licensees and a labor union. The proposal was designed to authorize wholesalers to advance credit of up to 30 days to retailers on beer and wine purchases. The Board felt that a legal question was involved and requested an opinion from the Attorney General as to the legality of a credit arrangement between a wholesaler and a retailer. The Attorney General subsequently ruled that such credit would be violative of a statute, and the petition was denied.

In cooperation with the Beer and Wine Wholesalers' Association, the Board helped resolve one of the knotty problems created by the federal price freeze in June. A last-minute reversal of an earlier ruling by the Economic Stabilization Board, authorized wholesalers to include the amount of the increase in the gallonage tax and a markup on same in their July prices. This decision came on June 29, and the Board on the same day approved special procedures to permit acceptance of the higher wholesale prices on an emergency basis.

(NOTE: Don, a copy of our Division's annual report for fiscal 1973 is attached herewith. The gallonage and tax figures for the year may be of particular interest to the wholesale segment of the industry.--B.H.)